IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 28387 of 2005(D)

OS.56/2000 of PRL.SUB COURT,THRISSUR

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PETITIONERS:

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1. MR.MATHEWS, AGED 46, S/O.VAREETH,
   MANNUMMAL, PADAVARADU DESOM,
   MARATHAKARA VILLAGE, TRICHUR TALUK,
   TRICHUR DISTRICT.

2. MRS.SHAILA,
   AGED 38, W/O.MATHEWS,
   MANNUMMAL, PADAVARADU DESOM,
   MARATHAKARA VILLAGE, TRICHUR TALUK,
   TRICHUR DISTRICT.

BY ADV. SRI.P.V.GEORGE(PUTHIYIDAM)

RESPONDENT:

JACOB, S/O.THOMAS,
KALLINGAL HOUSE,
NENMANIKKARA DESOM, NENMANIKKARA VILLAGE,
MUKUNDAPURAM TALUK,
TRICHUR DISTRICT.

BY ADV. SRI.P.V.CHANDRA MOHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 28387/05)

PETITIONERS' EXTS.:

EXT.P1: TRUE COPY OF THE EXECUTION PETITION IN E.P.29/04 DATED 13.1.2004 FILED BY THE RESPONDENT BEFORE THE SUB COURT, TRICHUR.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.28387 of 2005

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Dated: 1st June, 2007

JUDGMENT

The judgment-debtors in proceedings for execution of a decree for money by sale of properties belonging to them is aggrieved by the order for sale passed by the execution court. According to the petitioners, they did not get effective opportunity to raise their objections to the draft sale proclamation.

2. Mr.P.V.George, learned counsel for the petitioners submits that the petitioners have promptly complied with the condition imposed by this court for granting stay, i.e., a sum of Rs.50,000/- has been remitted within the stipulated time. Learned counsel wanted more time for verifying whether the parties have settled the issue between themselves. I am not inclined to grant adjournment since I find that the only ground which is seriously raised in the Writ Petition is that the upset price shown in the sale proclamation - Rs.1,50,000/- is far lesser than the correct market price of the property which according to the petitioners is Rs.7 lakhs. In other words, the contention of the petitioners seems to be that it is not necessary to sell the entire property for discharging the decree debt. The E.P.claim was Rs.1,54,869/- as on 13.1.2004. By now which would have

escalated to around Rs.2 lakhs out of which the petitioners have already paid Rs.50,000/-. The stay presently passed by this court will continue for another four months. It is open to the petitioners to identify a purchaser for the property in question either for whole of the property in question or for a part there of willing to pay the balance amount due under the decree as price. If such a purchaser is identified and an agreement is executed with him the petitioners will produce that sale agreement before the court below along with necessary application. The court below will pass orders on that application facilitating payment of the purchase price payable by the prospective purchaser to the decree-holder who will receive the same in full satisfaction of the decree debt. The order of stay will continue for four months and if the issue is not settled within the aforesaid period of four months, the impugned order will revive and become operative.

The Writ Petition is disposed of as above. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**